

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL CHURCH OF THE
FOURSQUARE GOSPEL,

Plaintiff,

vs.

CITY OF SAN LEANDRO, et al.,

Defendants.

FAITH FELLOWSHIP FOURSQUARE
CHURCH,

Real Party in Interest.

Case No.: C07-03605 –PJH-JCS

**[PROPOSED] ORDER GRANTING
PLAINTIFF AND REAL PARTY IN
INTEREST’S MOTION FOR SUMMARY
JUDGMENT AS TO ALL CLAIMS**

(FRCP 56)

Hearing: October 1, 2008

Time: 9:00 a.m.

Ctrm: 3

Hon.: Phyllis J. Hamilton

First Amended Complaint Filed: Oct. 26, 2007

ORDER

The motion of Plaintiff, International Church of Foursquare Gospel (ICFG), and Real Party in Interest, Faith Fellowship Foursquare Church (Church) for summary judgment came on regularly for hearing before this court on October 1, 2008, the Honorable Phyllis J. Hamilton Judge, presiding. Kevin T. Snider and Matthew B. McReynolds, of the Pacific Justice Institute, and Peter MacDonald of the Law Offices of Peter MacDonald, appeared as attorneys for Plaintiff and Real Party in Interest. _____, of Meyers, Nave, Riback, Silver and Wilson, appeared as attorneys for Defendant.

After full consideration of all the records, exhibits, points and authorities and other papers submitted in support and opposition to the motion, and after oral argument of counsel, the Court FINDS and DECLARES as follows:

1. The City's creation and application of eight land use criteria exclusively to the Church violated the "equal terms" provision of 42 U.S.C.A. § 2000cc (RLUIPA).
2. The City's imposition of a hazardous materials burden exclusively on the Church violated RLUIPA's "equal terms" provision.
3. The City's curtailment of the Church's ministry and outreach efforts created a "substantial burden" under RLUIPA, particularly since there were no suitable alternatives for the Church.
4. The City's allowance of commercial entertainment and recreational assembly use at a given location violate RLUIPA's "equal terms" when religious assembly use is prohibited at the same location.
5. The City's denial of religious assembly use at the Catalina property violate the First and Fourteenth Amendments.

1 6. The City's stated justifications of preserving its industrial base, maintaining consistency
2 with its general plan, and avoiding conflicts with neighboring uses are not compelling
3 interests under RLUIPA.

4 The Court therefore ENJOINS the City from further denying the Church the ability to use its
5 Catalina property for religious assembly. Damages, attorneys fees and costs will be awarded
6 separately in an amount according to proof.
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8 IT IS SO ORDERED.

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10 Dated: _____, 2008.
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13 _____
14 THE HONORABLE PHYLLIS J. HAMILTON
15 UNITED STATES DISTRICT COURT JUDGE
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